

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

Elma Henderson,

Case No.: 2:16-cv-01837-JAD-CWH

Plaintiff

Order Denying Motion for Reconsideration and Denying as Moot Request for Decision

V.

[ECF Nos. 227, 250]

Thomas Robert Hughes, et al.,

Defendants

And all related matters.

Elma Henderson brings this breach-of-contract and fraudulent-transfer case against

¹⁰ Thomas Hughes and a host of companies and trusts that she alleges are Hughes's alter egos.¹

11 Hughes moved to dismiss Henderson's claims,² and I denied his motion.³ Hughes now moves

12 for reconsideration, arguing that I did not consider all of his arguments when I decided his

¹³ dismissal motion.⁴ Hughes is mistaken. I didn't overlook any of the arguments that Hughes

¹⁴ regurgitates in his reconsideration motion—I rejected them. Hughes has not met his burden for

15 reconsideration, so I deny his motion for that relief.

In a document entitled "Request for Decision," Henderson asks me to issue an order

¹⁷ deciding three motions that are currently pending on the docket, including Hughes's motion for

¹⁸ reconsideration.⁵ I deny Henderson's request as moot because the motions themselves are

19 requests for decisions and Henderson has not shown that the parties require emergency relief.

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¹ ECF No. 155 (second-amended complaint).

2 ECF No. 168.

³ ECF No. 225 at 2.

23 | ⁴ ECF No. 227.

⁵ ECF No. 250 (seeking “a decision” on ECF Nos. 227, 244, 247).

Discussion

2 I. Hughes's motion for reconsideration [ECF No. 227]

3 A district court “possesses the inherent procedural power to reconsider, rescind, or
4 modify an interlocutory order for cause seen by it to be sufficient[,]” so long as it has
5 jurisdiction.⁶ This district’s local rule LR 59-1 advises that “[a] party seeking reconsideration
6 . . . must state with particularity the points of law or fact that the court has overlooked or
7 misunderstood.”⁷ “Motions for reconsideration are disfavored. A movant must not repeat
8 arguments already presented” except in narrow circumstances.⁸

9 Hughes argues that reconsideration is warranted because I overlooked his arguments that:
10 (1) the alter-ego allegations are not sufficiently pled because Henderson gets the facts wrong; (2)
11 Henderson must prove a knowing and bad-faith violation of Nevada law because some of the
12 defendants are spendthrift trusts; and (3) the fraudulent-conveyance claims are time barred
13 because Henderson got the facts wrong about when the transfers occurred.⁹ But I expressly
14 considered—and rejected—these arguments when I ruled on the motion:

15 Hughes also . . . disputes the facts alleged by Henderson, offers his
16 own facts, and asserts an assumption-of-the-risk affirmative
17 defense. None of these are valid dismissal arguments. And I note
that Hughes's argument against alter-ego liability for Nevada trusts
is not truly fleshed out and would be better suited to a motion for
summary judgment.¹⁰

²⁰ ⁶ *City of Los Angeles, Harbor Div. v. Santa Monica Baykeeper*, 254 F.3d 882, 885 (9th Cir. 2001) (quotation and emphasis omitted); *see also Smith v. Clark Cty. Sch. Dist.*, 727 F.3d 950, 955 (9th Cir. 2013).

7 L.R. 59-1(a).

" " 8 Id. at (b).

23||⁹ ECF No. 227.

¹⁰ ECF No. 225 at 2 n.5.

1 Hughes doesn't set forth a valid reason why I should reconsider my prior decision, he
2 merely restates—sometimes in block-quote format—the arguments that he made before.¹¹ The
3 only new information that Hughes provides is a convoluted wrongful-death hypothetical that he
4 appears to use to show that my refusal to look beyond the pleadings was manifestly unjust.¹²
5 There is no comparing the circumstances of Hughes's dismissal motion to those in Hughes's
6 hypothetical. And a hypothetical doesn't change the fact that, "[a]s a general rule, a district court
7 may not consider any material beyond the pleadings in ruling on a Rule 12(b)(6) motion."¹³
8 Indeed, FRCP 12(d) instructs that "[i]f, on a motion under Rule 12(b)(6) or 12(c), matters outside
9 the pleadings are presented to and not excluded by the court, the motion must be treated as one
10 for summary judgment under Rule 56."

11 I am not persuaded that my decision to not consider matters beyond the pleadings and,
12 thus, to not convert Hughes's "not truly fleshed out" dismissal motion into one for summary
13 judgment, was manifestly unjust. Hughes has not demonstrated that reconsideration is
14 warranted, so I deny his motion for that relief.

15 **II. Henderson's request for decision [ECF No. 250]**

16 Henderson filed a document entitled "Request for Decision" that asks me to decide three
17 motions that are currently pending on the court's docket, including Hughes's motion for
18 reconsideration.¹⁴ Henderson does not cite any authority for her request. Nor does she argue
19 that the parties need emergency relief or that good cause exists to hear the motions outside of the
20 ordinary course. The motions that she wants decisions on are themselves requests for decisions

21 ¹¹ *E.g.* ECF No. 227 at 2–3.

22 ¹² ECF No. 227 at 5–7.

23 ¹³ *Lee v. City of Los Angeles*, 250 F.3d 668, 688 (9th Cir. 2001) (quotation omitted).

¹⁴ ECF No. 250.

1 and I have ruled on one of them in this order. The remaining motions will be decided—along
2 with the hundreds of others on my docket—in the normal course. I therefore deny Henderson's
3 request for decision as moot.

4 **Conclusion**

5 Accordingly, IT IS HEREBY ORDERED that Hughes's motion for reconsideration
6 **[ECF No. 227] is DENIED.**

7 IT IS FURTHER ORDERED that Henderson's request for decision **[ECF No. 250] is**
8 **DENIED as moot.**

9 Dated: September 24, 2018



10 U.S. District Judge Jennifer A. Dorsey

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